

FINAL RESULTS EDITION

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The

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World.

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NEW YORK, WEDNESDAY, DECEMBER 13, 1905.

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POLICE RAID JIMMY WAKELY'S

M'CLELLAN WINS BALLOT CASE, BUT CONTEST GOES ON

Court of Appeals Declares Votes Shall Not Be Recanvassed—M. O. Leader Will Now Begin Quo Warranto Proceedings.

(Special to The Evening World.)
ALBANY, N. Y., Dec. 13.—William Randolph Hearst was defeated in the Court of Appeals to-day in his contest of the election of George B. McClellan as Mayor of New York. By a vote of five to two the highest legal tribunal in the State held that the ballot boxes could not be opened for a recanvass of the votes. Judge Gray wrote the opinion of the court, which was concurred in by Chief Judge Cullen and Judges O'Brien, Haight and Werner. The dissenters were Judges Bartlett and Vann.

The Court reverses the order of the Appellate Division, First Department, and dismisses the proceedings with costs to Hearst.

The opinion declares that the direction of the law for a recount is addressed to the inspectors of election and that the statute discloses no authority on the part of the Court to interfere. When the tally sheet and the ballot clerks' returns do not agree the mistake, the Court says, must be rectified by a recount made by the inspectors on the night of the election.

"It is so important an exercise of judicial power of supervision or review as is contemplated by the order of the Courts below was intended I think it should have been stated and not left to implication."

Not Intent of Law.

"I do not believe that the Legislature intended that the court of a judge should sit in review of the Ministerial work of the election officers, and I do not find any provision of this law that goes so far."

"It is not a question of whether they should have the power, but whether the Legislature has conferred it. There is no room for the play of sentimentality on this. The plain duty of the court is simply to construe the statute as to effectuate its provisions, leaving it to the Legislature power to supply omissions or to remedy defects."

"Section 54 of the election law discloses no authority conferred on the Court to interfere, and its careful reading and consideration distinctly import that when the tally sheet, which is made up by the inspectors, differs from the return of the ballot clerks of ballots given out to voters, the mistake at once appearing in the count must be corrected by a recount."

Trying for a Recount.

"The language is: 'Such (that is, of the total vote) as may be ascertained by the inspectors upon the tally sheet as having been cast) must equal the number of ballots voted as shown by the ballot clerks' return of ballots, and if it does not there has been a mistake in the count and the ballots must be recounted, &c.'"

"That is to say the mistake being made by the inspectors in their account of these ballots voted they must at once go over again and re-canvass ballots."

"It is to be observed that when the inspectors have completed their work and proclaimed the result the counted ballots have been placed in a box under lock and seal and Section 54 does not confer any authority in terms upon the court to reopen and to recount."

"The power to open a ballot box is conferred by Section 11 and is confined to an examination of the contents."

"A good reason may be found for the non-interference of the court with the ministerial work of the election officers in the higher necessity that the result of a public election should be promptly made known. It is a wiser policy that the result shall not be still left in uncertainty after its proclamation by the Board of Inspectors at the close of the canvass."

Delays Are Impolitic.

"It is impolitic that the administration of governmental affairs should be permitted to be embarrassed through the delays occasioned by judicial reopening of the canvass at the instance of any defeated candidate. Some finality of action on the part of the Election Board was intended, and the power to review appears to be confined to the decision upon ballots rejected as void or as marked for identification, leaving any further examination of the ballots which have been counted without objection and sealed up to be in the proceeding instituted by a defeated candidate to try the

GUARD CRUSHED TO DEATH ON THE "L"

Police Unable to Solve the Mystery That Surrounds the Employee's Death.

T. R. Aldridge, a guard on the Sixth Avenue elevated, was killed instantly yesterday afternoon by a train at the One Hundred and Fifty-fifth street station. Three days ago a switchman was killed at the same place. There is considerable mystery surrounding Aldridge's death, which the police have been unable to solve. The motorman of the train declared he did not see the guard.

Aldridge was jammed between the station and the fourth car of the train. Stains on the track indicated that he had been dragged or thrown for twenty-five feet. A deep gash in the back of his head was the only injury on his body.

The body was not discovered until after the train had pulled north into the yards. It is said that N. Devlin, of No. 222 East One Hundred and Fifty-fifth street, an elevated guard, was with Aldridge and that both were crossing the tracks when the train suddenly approached.

Police and Aldridge could not find Devlin. About the only thing he found at the station was a search of information. All the employees of the road suddenly became dumb. Brodman finally located John C. Metzger, of No. 222 West One Hundred and Fifty-fifth street, the motorman, and placed him under arrest.

Don't know how the man was killed," said Metzger. "I didn't see him on the track, and I didn't see the train hit him. He must have been hit by one of the rear cars."

Aldridge was married and lived at No. 305 West One Hundred and Seventeenth street.

CALARE HELD FOR MATHESON'S DEATH

Watchman Admits Killing Doctor Thinking Him Some Prowling Animal.

The Coroner's jury summoned by Coroner Berry, in the Bronx, returned to-day a verdict that Dr. John Matheson was shot and killed on the morning of Dec. 8, met his death by a bullet fired by Antonio Calare, the young Italian watchman at an unfinished apartment house house, which Dr. Matheson's body was found.

At the inquest today Calare testified that he fired five times at Dr. Matheson. He explained was that he thought the physician was some animal prowling about in the dark. Calare said he was thoroughly scared and shouted, but receiving no answer fired. He said that not until daylight did he know he had killed a man, one shot having entered the top of Dr. Matheson's head. Calare said he was frightened and ran away.

Miss Mary E. Dickson, the teacher whom Dr. Matheson was to have married before Christmas, said she never knew him drunk.

Minneapolis Gets C. A. R.

MINNEAPOLIS, MINN., DEC. 13.—At the C. A. R. conference here to-day it was decided to hold the national encampment in Minneapolis beginning Aug. 12.

JEROME FEARS BRIBERY OF THE HUMMEL JURY

Men Who Decide Lawyer's Fate to Be Guarded During Trial.

THEY CANNOT GO HOME

First Time Since McLaughlin Case Such Precautions Have Been Taken.

Sensational incidents following each other so rapidly that they bumped marked the opening to-day of the trial of Abe Hummel on a charge of conspiracy to annul the marriage of Charles W. Morse and Mrs. Clemence Dodge Morse.

For the second time in the recent history of the Criminal Branch of the Supreme Court a jury is kept in the custody of the court officers. District Attorney Jerome obtained an order accomplishing this with the Hummel jury on the ground that he feared attempts would be made to bribe them.

The determination of Mr. Jerome and his assistant, Mr. Rand, to secure a conviction is open and undisguised. In fact, their hostility is so apparent that his counsel moved several times soon after the opening of the trial that the entire panel of jurors be discharged because of remarks prejudicial to his interests made by Mr. Rand.

A Sensational Trial.

The trial promises to be the most sensational and hotly fought in years. De Lancey Nicol and John B. Stansfield are determined to fight to the last ditch. The last time a jury was locked up to protect the members from attempts at bribery in this city was during the trial of Inspector William McLaughlin. Jerome's motion to have the jury sequestered for the length of the Hummel trial created a sensation among lawyers.

The Hummel jurors will be comfortable in their enforced captivity, as the District Attorney has engaged a suite of nineteen connecting rooms at the Broadway Central Hotel, and the twelve men will be lodged there at the expense of the county.

Members of the panel were dismayed when they learned that those who are to decide upon the evidence will be kept from their families and business for a week or more. Should the trial last over Christmas they will be deprived of their holiday association with their wives and children—such of them as are equipped with these comforts and joys. The foreman of the jury is a bachelor, so is Abe Hummel.

Plot to Kill Dodge.

Assistant District Attorney Rand accused persons interested in the welfare of Hummel of plotting to kill Dodge, the chief witness for the prosecution, and an attempt was actually made on his life.

Justice Rogers was late in beginning the trial after recess. The defendant was bright and cheerful when he reached the court-room. He stepped across to the reporters' table as he was removing his coat and remarked: "Well, boys, I haven't escaped yet. I'm Johnny on the spot."

In asking that the jury be locked up during the trial District Attorney Jerome said:

"The personal character of the defendant and of his firm is such that it would be injudicious to allow these jurors to separate. It will be impossible to watch them all. This defendant has been once disbarred on his own confession that he bribed a Judge." Mr. Jerome went on to explain that since his arrest Hummel has been at liberty on parole in the custody of his counsel. He asked that Hummel be put under \$500 bail, which was done.

Justice Rogers took his seat promptly at 10:20 o'clock. The call of the roll of jurors proceeded, and then came Thomas P. Wickes, the writer of the "Lewis Jarvis" letters, for sentence.

Yet Fight for Delay.

De Lancey Nicol, leading counsel for Hummel, opened the proceedings, when his case was called, with the usual Hummel excuses for delay. He asked for a special panel of jurors and requested the District Attorney to waive the usual two days' notice in such cases. Mr. Nicol said the action of the District Attorney yesterday in suddenly and unexpectedly withdrawing his motion for a special jury entirely disarranged the plans of the defense.

He quoted the language of the District Attorney when the original motion for a special jury was made and said he agreed with the ideas expressed at that time.

Mr. Rand talked for expedition. He said that the defendant has been holding up the State for two years. It took us a year and recourse to the United States Supreme Court to extradite a prisoner from Texas," he declared.

NEWSIES BREAK INTO ATHLETICS. Their new Athletic Club at 74 East Fourth street will be formally opened to-night.



PERKINS OUT; PEABODY GETS M'CURDY'S JOB

Alexander E. Orr New Vice-President of the New York Life.

The New York Life trustees accepted the resignation of George W. Perkins as Vice-President and Chairman of the Finance Committee and elected Alexander E. Orr to the former place and John Claffin to the latter to-day. Mr. Perkins did not resign as a trustee.

President McCall was at the meeting and made a speech, but didn't hint at any intention of getting out himself.

Mr. Perkins's resignation was forced by the revelations concerning his connection with the company and with J. P. Morgan & Co. brought out at the insurance investigation.

Charles A. Peabody was elected President of the Mutual Life Insurance Company at a meeting of the Board of Trustees to-day. Mr. Peabody's salary was \$50,000 a year. His predecessor, Richard A. McCurdy, received \$150,000 a year. Mr. Peabody will take office on Jan. 1, when he will relieve Frederic Cromwell, temporary president.

The Board of Trustees adopted a resolution of thanks to Mr. Cromwell for his services as temporary president.

Charles A. Peabody was nominated for trustee to succeed Justice Rufus W. Peckham, and Emory McClintock was nominated to succeed Elihu Root as trustee. Both of these nominations, under the by-laws, went over until the next meeting.

Charles A. Peabody, at his office, No. 2 Wall street, denied that he would represent the Standard Oil clique as president of the Mutual.

"I do not represent any interest," he said. "I will be independent in the Mutual as I have always been. I cannot say what policy I will pursue."

Mr. Peabody is a lawyer and the American representative of William Waldorf Astor. He is a director in several banks and corporations, and was at first opposed as President of the Mutual on the ground that he was too close to the Standard Oil interests. After six charges had been made a statement was issued by Mr. Peabody's friends to the effect that if elected President he would represent no outside interest.

Prison for Slave Trading.

PARIS, DEC. 13.—The Minister of the Colonies, M. Clementel, to-day signed a law punishing with two to five years' imprisonment and a heavy fine any one engaging in the slave trade in the French African colonies.

P. R. R. to Spend \$5,000,000.

PHILADELPHIA, DEC. 13.—The Board of Directors of the Pennsylvania Railroad Company to-day authorized improvements which it is estimated will cost in all approximately \$5,000,000.

Two Drowned Skating.

BRIGHTON, MICH., DEC. 13.—Bert Stewart, a young farmer, and a young woman skating on the frozen Lake Erie to-day were drowned.

LATEST NEWS OF SPORTS.

Heavy Storm Makes Big Change in Condition of Track.

(Special to The Evening World.)
FAIR GROUNDS, NEW ORLEANS, La., Dec. 13.—Mudlarks had their inning at the Fair Grounds to-day. The heavy storm of last night (and this forenoon) changed the going from fast to heavy. Despite the fact that there was a change in track conditions there were a few scratches. The weather was rainy and a small crowd was out. Seventeen broke out for the day's business.

The interview of H. D. "Curly" Brown, which appeared in the local papers to-day, created quite a sensation in local track circles. Brown, in his interview, calls President Henslip, of the New Orleans Jockey Club, and D. H. Barnes, the general manager of the City Park course, and who is also president of the City Jockey Club, "bird dogs" for Ed Corrigan, and that they follow out his instructions to the letter.

Brown also in his interview says that he was not anxious to start at City Park, but wanted to protect some of the stockholders in the New Orleans Jockey Club. Brown also says that he intends to throw the New Orleans Jockey Club into the hands of a receiver.

FIRST RACE—Purse, \$400; two-year-olds, six furlongs—Delmore, 112 (O'Neil), 13 to 5 and 6 to 5 won by three lengths, Turn Over, 109 (J. Foley), 60 to 1 and 20 to 1 second, J. C. Chen, 108 (Loring), 8 to 1 and 5 to 2 third. Time—1:17.5.

SECOND RACE—Purse, \$400; three-year-olds, selling; six furlongs—Paradise, 102 (W. McGee), 3 to 1 and 5 to 5 won by three lengths, Gotwin, 107 (L. Wilson), 10 to 1 and 4 to 1 second, Gay Adelaide, 107 (L. Smith), 9 to 1 and 5 to 2 third. Time, 1:17.5.

THIRD RACE—Purse, \$400; four-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

FOURTH RACE—Purse, \$400; three-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

FIFTH RACE—Purse, \$400; three-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

SIXTH RACE—Purse, \$400; three-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

SEVENTH RACE—Purse, \$400; three-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

EIGHTH RACE—Purse, \$400; three-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

NINTH RACE—Purse, \$400; three-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

TENTH RACE—Purse, \$400; three-year-olds and up, selling; one mile and one-sixteenth, Peckles, 102 (Cherry), 9 to 1 and 4 to 1 won, Imboden, 107 (T. Walsh), 8 to 1 and 2 to 1 second, Athene, 106 (Feicht), 15 to 1 and 5 to 1 third. Time—1:50.4.

After Incendiary Suspects.

BRUNSWICK, N. J., DEC. 13.—Incendiaries seem to be pursuing the Kleinhans at Milstone. A large hay barn on the Fleischmann place was burned last night. A week ago the large barn and out-buildings were destroyed by a mysterious fire which imperilled a number of valuable blooded horses. A short time prior to that the stables at the Fleischmann stock farm and training track were burned under suspicious circumstances. Searching parties are out after two suspects.

Capt. Sam Brown Buried.

PITTSBURGH, PA., DEC. 13.—The funeral of Capt. Samuel S. Brown, the wealthy coal operator and well-known horseman, was held at 1 o'clock this afternoon from his late residence, Brown Place, Schuylkill Hill. Interment was in Allegheny Cemetery. Many business and social acquaintances from New York and other cities attended the services.

Lightship Crew Disciplined.

NEW BEDFORD, MASS., DEC. 13.—Capt. James Jorgensen and his officers, of Relief Lightship No. 88, and crew, received notice to-day that the lightship board in Washington has decided to give the men waiting orders, their pay to cease on Dec. 11, the day of the sailing of the ship. Capt. Jorgensen completely broke down when he attempted to communicate the order to his men.

WRECK MADE OF POOLROOM OVER WAKELY'S PLACE

Costigan and His Men Break in and Play Havoc with the Fittings—The Manager of the Place Is Arrested.

Acting Captain Costigan, who succeeded Eggers, and a squad of ten detectives made a sudden dash on Jimmy Wakely's place, at Forty-second street and Sixth avenue, late this afternoon. They forced their way into a room over the saloon, where they found over two hundred men busily engaged in picking good things at City Park and the Fair Grounds at New Orleans and laying their money at roulette.

As soon as Costigan and his men forced in the door there was a wild panic. The men in the room made a dash for the windows and half a dozen of them leaped from the windows to the awning below and slid to the streets.

AT THE POINT OF REVOLVERS.

The detectives had gained the poolroom by both the inside and side-door entrance. They had battered down the side-door entrance with crow-bars and sledge hammers and forced their way up the inside entrance, revolvers in hand.

When they rushed in upon the throng of men in the crowded room every member of the squad had his weapon drawn, and in response to a signal from Costigan and Detective Sergeant William Maher they attempted to pick five men out of the crowd.

In the panic that followed they only were able to make three arrests in the pool-room. One of them was Charles White, the manager of the place. He was beaten almost into insensibility before he was made a prisoner. SEVEN MORE CORRALLED.

After these captures were made upstairs half of the squad of detectives went down into the saloon to round up the rest of those who had been marked for arrest, and altogether ten prisoners were taken, many of them resisting and fighting desperately.

The raiders had sent to the East Fifty-first Street Station for patrol wagons, which were rushed to the place. The prisoners were hustled into the wagons and were on their way to the station-house before Capt. Lantry realized the situation. He had no warning of the raid.

When he arrived at the saloon a roulette wheel, a number of telephones and a heap of racing paraphernalia were being put in the patrol wagons. He looked on, but did not interfere. The evidence taken in the place was driven to Police Headquarters.

CUT HER BUSINESS RIVAL WITH A RAZOR

Mrs. Donato Attacked Mrs. Grose, Who Is in Long Island City Hospital.

Mrs. Mamie Grose, who resides with her husband at No. 161 Vernon avenue, Long Island City, was to-day out across the face and ear with a razor by Mrs. Marie Donato, of No. 141 Vernon avenue.

Marie Donato fled after the cutting, and the police are looking for her. Mrs. Grose was taken to St. John's Hospital. So far the police have not been able to find any motive for the cutting, but it is supposed that business rivalry was responsible for the deed. Both women own little grocery and fruit stores a block apart.

POLICE MAKE SECOND RAID ON GAMBLERS

Roundsman Black, of Acting Captain Costigan's squad, conducted a raid on the premises, No. 42 Union square, late this afternoon. They broke in through the windows and found inside 103 men who were alleged to have been gambling on the races and playing stuss. The men tried to break through to the street, but were held back by the display of revolvers.

They made three arrests. This raid, like the one earlier at Jimmy Wakely's, was conducted over the captain's head. In this instance Capt. Herlihy knew nothing about it until it was all over. The sign on the window where the raid was made read "Hair Dressing Establishment."

FAIR GROUNDS WINNERS.

Fourth—Calabash 1-1, Formaster 3-1 place, Paul Clifford. Fifth—Townes 7-5, Flaviyng 6-5 place, Remington. Sixth—J. P. Mayberry 11-5 Los Angeles 3-1 pl. D. McKenna AT CITY PARK. Sixth—Lampadrome 5-1, Monochrd 2-1 place, Pillar. Seventh—Sheen 6-5, Henry Ach 5-2 place, Modred.

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Reckless Drivers Are Bombing Motorists